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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,667	04/01/2004	James C. Tanner	CLC1012	8315

7590 12/28/2004
Sean A. Kaufhold
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Carlsbad, CA 92013

EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/814,667	TANNER ET AL.	
	Examiner	Art Unit	
	Son T. Nguyen	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16" has been used to designate both front wall and front opening. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Baillie et al. (US 5361725) in view of Hotter (US 6415738).

For claim 1, Baillie et al. teach a litter box assembly comprising: a housing 10 having a bottom wall, a back wall, a first side wall and a second side wall, an upper edge of said housing defining an upper opening extending into said housing, a covering 20 being attached to an upper edge of said back wall, said covering being selectively positioned in an open position or in a closed position; a partition wall 34,36 being mounted within said housing and extending from said front wall toward said back wall, a first portion of said housing being defined between said partition wall and said first side wall, a second portion of said housing being defined between said partition wall and

said second side wall; said front wall having a front opening 26 extending therethrough, said front opening extending into said first portion, said front opening having a bottom edge spaced from said bottom wall; a mat (col. 4, lines 15-25) being removably positioned in said first portion and substantially covering said bottom wall of said first portion; and a litter pan 28 being removably positioned in said second portion. However, Baillie et al. are silent about the covering being hingedly attached to the housing, and the mat having a top side having a plurality of britstles extending upwardly therefrom.

Hotter teaches a litter box assembly comprising a covering 14 being hingedly attached (at ref. 16) to a housing 12, and a mat 34 having a top side having a plurality of bristles 36 extending upwardly therefrom. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the cover of Baillie et al. be hingedly attached to the housing as taught by Hotter in order to allow a user to open and/or close the covering without losing the cover from the housing. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a mat with bristles as taught by Hotter in the litter box system of Baillie et al. in order to allow a cat to wipe its' paw on the mat for extract cleaning.

For claim 2, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the housing of Baillie et al. as modified by Hotter with a height generally between 14 inches and 18 inches, said housing having a length generally between 24 inches and 28 inches, said housing having a width generally between 18 inches and 22 inches, since it has been held that where routine testing and

general experimental conditions are present, discovering the optimum or workable value/ranges until the desired effect is achieved involves only routine skill in the art.

For claim 3, Baillie et al. as modified by Hotter (emphasis on Baillie et al.) teach wherein said covering is substantially transparent.

For claim 4, Baillie et al. as modified by Hotter (emphasis on Baillie et al.) teach wherein each of said first and second side walls has an aperture extending therethrough, each of said apertures being generally centrally disposed.

For claim 5, Baillie et al. as modified by Hotter (emphasis on Baillie et al.) teach wherein each of said apertures has as generally oblong shape.

4. **Claims 6-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Baillie et al. as modified by Hotter as applied to claims 1,2 above, and further in view of Schwartz (US 6237534).

For claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the partition wall of Baillie et al. as modified by Hotter extends between 9 inches and 11 inches away from said front wall, said partition wall being spaced between 7 inches and 8 inches from said first side wall, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable value/ranges until the desired effect is achieved involves only routine skill in the art.

For claim 7, Baillie et al. as modified by Hotter (emphasis on Baillie et al.) teach wherein said covering is substantially transparent.

For claim 8, Baillie et al. as modified by Hotter (emphasis on Baillie et al.) teach wherein each of said first and second side walls has an aperture extending therethrough, each of said apertures being generally centrally disposed.

For claim 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the front opening of Baillie et al. as modified by Hotter generally extending from said partition wall to said first side wall, said front opening having a height generally between 8 inches and 12 inches., since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable value/ranges until the desired effect is achieved involves only routine skill in the art.

5. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Baillie et al. as modified by Hotter as applied to claim 1 above, and further in view of Vicknair (US 6761130).


Vicknair teaches a litter box assembly comprising an air filter 34. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an air filter as taught by Vicknair in the litter box assembly of Baillie et al. as modified by Hotter in order to filter the air. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to position the filter of Baillie et al. as modified by Hotter and Vicknair in the covering, said air filter being positioned over said second portion when said covering is in said closed position, depending on the user's preference to do so based on the available space in the litter box.

Allowable Subject Matter

6. **Claim 11** is allowed.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 703-305-0765. The examiner can normally be reached on Mon-Fri from 9:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Son T. Nguyen
Primary Examiner
Art Unit 3643

stn